

Reconciling GRAMA and the Open and Public Meetings Act

How does GRAMA (Government Records Access and Management Act) treat disclosure of records created under the Open and Public Meetings Act?

Note: The Open and Public Meetings Act requires the creation of the following records: notice of meetings, agendas, written minutes, and recordings of meetings. The "physical form or characteristics" of a record does not matter under GRAMA (see Subsection 63G-2-103(22)).

Key Statutory Provisions	Summary/Notes
63G-2-301. Records that must be disclosed.	
(2) The following records are public except to the extent they contain information expressly permitted to be treated confidentially under the provisions of Subsections 63G-2-201(3)(b) and (6)(a):	These records are public unless treated otherwise by court order or law
(e) information contained in or compiled from a transcript, minutes , or report of the open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open and Public Meetings Act , including, the records of all votes of each member of the governmental entity;	Minutes are public records - information in minutes or compiled from minutes of an open meeting is public, including votes taken
(3) The following records are normally public , but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305:	These records are normally public but could be restricted under a court order or a law including GRAMA
(j) drafts that are circulated to anyone other than: <ul style="list-style-type: none">(i) a governmental entity;(ii) a political subdivision;(iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;(iv) a government-managed corporation; or(v) a contractor or private provider;	A draft that is circulated outside of the entities involved is normally a public record In other words, a draft that is not circulated is not normally a public record (<i>See Subsection 63G-2-305(22) below</i>) (Draft means "a writing...as first put on paper and intended to be revised later" <i>Webster's Encyclopedic Dictionary</i>)

Key Statutory Provisions	Summary/Notes
(k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;	A draft that has never been finalized but is relied upon becomes a "normally public record"
63G-2-305. Protected records.	
The following records are protected if properly classified by a governmental entity:	These are protected records if properly classified as protected
(22) drafts , unless otherwise classified as public;	A draft is a protected record unless it is classified as public under another provision of GRAMA (for example see Subsections 63G-2-301(3)(j) and (k) above)
(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;	Personnel records of a higher education institution, except final decisions, that could be properly discussed in a closed meeting are protected records
(32) transcripts, minutes, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;	Minutes of the closed portion of a meeting are protected records